



JUDICIAL INVESTIGATION COMMISSION

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September 21, 1998

Re: JIC Advisory Opinion 1998-13

Dear

Your recent letter to Counsel to the Judicial Investigation Commission which you seek an advisory opinion was reviewed by Members of the Commission. In your letter you state that you have received the recent JIC advisory opinion on your inquiry regarding simultaneous service in two part-time judicial positions, specifically Family Law Master and U. S. Magistrate Judge. You state in your recent inquiry that you intent to apply for the part-time U. S. Magistrate Judge position as well as the fulltime U. S. Magistrate Judge position, both of which are open in the

District. You asked the Commission for an opinion on whether merely applying for these positions would cause any ethical concerns as you continue to serve as a Family Law Master.

The provisions of Article 8 § 7 of the Constitution of West Virginia which state that "no justice, common judge, or magistrate shall hold any other office, or accept any other appointment of public trust under this or any other government. . . ." would prevent you from accepting a position of U. S. Magistrate Judge if one were offered and continuing to serve as a Family Law Master. However, this provision of the State Constitution does not appear to prevent you from applying for these positions and continuing to serve as Family Law Master. Obviously, if you were chosen for one of the U. S. Magistrate Judge positions you will then need to choose between that position and the one you are currently holding.

If you have any further question regarding this matter do not hesitate the Commission.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John W. Bennett".

John W. Bennett, Chairman

JWB:nb